

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

UNITED STATES OF AMERICA

VERSUS

CRIMINAL ACTION NO. 4:09CR147

**DWAYNE SMITH and
DAMIEN DARNELL SUBER**

ORDER

This cause is before the Court on the government's Motion for Continuance [58]. The Court, having reviewed the motion, the responses and being otherwise fully advised in the premises, finds as follows, to-wit:

The government seeks a continuance of the trial set to commence on August 30, 2010. In support of the motion, the assistant United States Attorney avers that he is in need of a continuance because he has yet to obtain approval to appeal this Court's ruling on defendants' motion to suppress evidence from the Department of Justice. The defendants oppose the requested relief.

After due consideration of the matter, the Court is of the firm conviction that a continuance is unwarranted under the facts before the Court. The Court's ruling on the motion to suppress issued close to a month ago, thereby affording the government an ample opportunity to seek approval of an interlocutory appeal. Moreover, one of the defendants is a pretrial detainee; he has been in custody for a number of months. In light of the foregoing, the Court concludes that the government's motion is not well-taken and should be denied.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the government's Motion for Continuance [58] is not well-taken and should be, and hereby is, DENIED.

SO ORDERED, this the 25th day of August, 2010.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE